

**Notice of Allowability**

Application No.

09/980,114

Examiner

Lewis G. West

Applicant(s)

DANIEL ET AL

Art Unit

2682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Affidavits filed November 14, 2005.
2. ☒ The allowed claim(s) is/are 1, 5, 52-85 which are renumbered as 1-36.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
- ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
- ☐ Examiner's Amendment/Comment
- ☒ Examiner's Statement of Reasons for Allowance
- ☐ Other \_\_\_\_\_

L. West

***Response to Amendment***

The Affidavits under 37 CFR 1.132 filed November 14, 2005 is sufficient to overcome the rejection of claims 1 and 5 based upon previously applied references under 35 U.S.C. 103 by establishing evidence of commercial success.

Claims 52-55 were previously indicated as allowable.

Newly added claims 56-85 were discussed in an interview with Examiner Ray Persino and Supervising Patent Examiner William Trost, and as they are similar in scope to claims previously rejected under 35 USC 103, it was shown that commercial success should also be taken into consideration when examining these claims.

***Allowable Subject Matter***

Claims 1, 5 and 52-85, which are renumbered as 1-36 are allowed.

The following is an examiner's statement of reasons for allowance:

The prior art does disclose some aspects of the claimed invention, as is taught in the Martin, Jr. reference (US 6,363,419). The reference teaches a system with location based ad delivery during an idle period of a mobile communication device, as well as buffering said messages, and updating the messages contained in the buffer, due to time lapse or location change.

With regard to claim 1, the prior art does not teach or fairly suggest transmitting a staggered sequence of display messages advertising an item in progressively smaller geographical area centered around a predefined location in combination with the other elements

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of the claim. When incorporating all the limitations of claim, none of the prior art discloses the features as claimed.

Claim 5 depends from allowable claim 1. When incorporating all the limitations of the base claim, none of the prior art discloses the features as claimed.

With regard to claim 52, the prior art does not teach or fairly suggest transmitting a staggered sequence of display messages advertising an item in progressively smaller geographical area centered around a predefined location in combination with the other elements of the claim. When incorporating all the limitations of claim, none of the prior art discloses the features as claimed.

Claims 53-55 depend from allowable claim 52. When incorporating all the limitations of the base claim and any intervening claims, none of the prior art discloses the features as claimed.

With regard to claim 56, the prior art does not address silently receiving a plurality of messages without user interaction in combination with silently discarding the display messages from the buffer with a display message disregard scheme irrespective of whether the message has been viewed in combination with the other claimed features. When incorporating all the limitations of the base claim and any intervening claims, none of the prior art discloses the features as claimed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. As mentioned above, Martin Jr. (US 6,363,419) has been found to be relevant to the prior art in this case, as it does disclose buffering location based messages to be displayed during and idle state in a communications device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lewis G. West whose telephone number is 571-272-7859. The examiner can normally be reached on Monday-Friday 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To can be reached on 571-272-7629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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 11/27/05

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